

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
Charlottesville Division**

<b>ELIZABETH SINES, ET AL.</b>	)	
	)	
<i>Plaintiffs,</i>	)	
	)	<b>Civil Action No.</b>
<b>v.</b>	)	<b>3:17-cv-00072-NKM</b>
	)	
<b>JASON KESSLER, ET AL.</b>	)	
<i>Defendants.</i>	)	
<hr style="width:40%; margin-left:0"/>	)	

**MOTION TO WITHDRAW AS ATTORNEY FOR NATIONAL SOCIALIST  
MOVEMENT AND NATIONALIST FRONT**

COMES NOW, Attorney Edward ReBrook IV, counsel for National Socialist Movement (“NSM”) and Nationalist Front (“NF”), and respectfully moves the Court for leave to withdraw as counsel of record for both NSM and NF. Counsel so moves on the grounds that a conflict of interest has arisen such that continued representation of NSM and NF would cause counsel to violate the Virginia Rules of Professional Conduct.

In March of 2019, counsel was retained by Defendant Jeff Schoep and agreed to represent the NSM and NF on behalf of his client. At the time counsel agreed to represent NSM and NF, it was not known that Mr. Schoep would not only leave the NSM, but would also be speaking out against his former group as well as the White Nationalist movement. Defendant Schoep currently works with several different organizations to promote peace and speaking out against his former organization and the ideology they profess. Since August of 2019, Mr. Schoep continues to speak out against racism, antisemitism and violence, thus creating a conflict of interest between clients. In cases where conflicts of interest arise the advice of the Virginia State Bar Ethics Council is sought. In this instance, counsel sought the advice of the Virginia

State Bar Ethics Counsel and was advised that defense counsel should move to withdraw.

Accordingly, undersigned counsel respectfully requests to be granted leave to withdraw as counsel for NSM and NF.

### **LAW AND ARGUMENT**

Rule 1.16(a) of the Virginia State Bar Rules of Professional Conduct applies to this circumstance. Rule 1.16(a) states: “Except as stated in paragraph (c), a lawyer shall not represent a client or, where representation has commenced, shall withdraw from the representation of a client if: (1) the representation will result in violation of the Rules of Professional Conduct or other law;”

Specifically, Rule 1.7 provides that a “lawyer shall not represent a client if the representation involves a concurrent conflict of interest. A concurrent conflict of interest exists if: (1) the representation of one client will be directly adverse to another client; or (2) there is a significant risk that the representation of one or more clients will be materially limited by the lawyer’s responsibilities to another client, a former client or a third person or by personal interest of the lawyer.” *Id.* Here, counsel has determined that there exists a concurrent conflict of interest. While the NSM/NF espouses antisemitism and racial separation, Defendant Schoep has been speaking out against antisemitism, racism and violence. Thus creating a conflict of interest. Rule 1.7(b) permits a lawyer to represent a client notwithstanding the existence of a concurrent conflict of interest but only if each affected client consents after consultation and:

(1) the lawyer reasonably believes that the lawyer will be able to provide competent and diligent representation to each affected client;

As noted above there is direct adversity between NSM/NF and Mr. Schoep.

Both subsections of Rule 1.7 are relevant to the present circumstance. Specifically, the interests of the clients, Defendant Schoep and Defendants NSM/NF, are clearly and directly adverse and there is a significant risk that continued representation of NSM and NF would be limited by the representation of the other client. While Defendant Schoep, is willing to cooperate with counsel and this court, the new leadership of the NSM, Burt Colucci, has made it abundantly clear that he does not consider his organization a named defendant in this litigation and therefore will not co-operate with this court or counsel of record.

In addition to the above conflict of interest, counsel has privity of contract with only one of the defendants in this civil litigation and that is Defendant Jeff Schoep. Mr. Schoep immediately retained counsel of record as his attorney after the hearing on March 1, 2019. Defendant Schoep is the only client that counsel has a privity of contract with and it would be unethical for counsel to leave his representation.

According to the Virginia Rules of Professional Conduct, withdrawal is also justified if the client persists in a course of action that the lawyer reasonably believes is illegal or unjust, for a lawyer is not required to be associated with such conduct even if the lawyer does not further it. It has come to counsel's attention that an alleged member of NSM recently attempted to perform acts of violence. *See* Ex 1. Counsel cannot in good faith associate with a client (NSM / NF) who is threatening violence.

### **Conclusion**

Based upon the foregoing, defense counsel respectfully requests that leave to withdraw as counsel for NSM and NF be granted.

Dated: March 27, 2020

Respectfully Submitted,

/s/ W. Edward ReBrook, IV  
W. Edward ReBrook, IV (VSB 84719)

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### CERTIFICATE OF SERVICE

I hereby certify that on March 28, 2020, I filed the foregoing with the Clerk of Court through the CM/ECF system, which will send a notice of electronic filing to:

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I further hereby certify that on March 28, 2020, I also served the following non-ECF participants, via electronic mail, as follows:

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